released its proprietary right in great ponds under twenty acres in size to the owners of the shores, seems not strictly correct, since the statute purports to release only the right of fishery in such ponds. See P. S. c. 91, §§ 10, 11 and Statute of 1888, c. 318. "Great ponds" appear to remain those over ten acres in size, according to the Colony Ordinance of 1647.

REVIEW.

SELECT PLEAS OF THE CROWN. Vol. I., A.D. 1200–1225. Edited for the Selden Society, by F. W. Maitland. London: Bernard Quaritch. 8vo. xxx and 164 pages.

The Selden Society and its editor are to be congratulated upon the first fruits of this new organization. The work of Mr. Maitland is of the high degree of excellence that was to be expected from the editor of Bracton's Note Book. The translation of the Latin text is especially successful.

Of the many points of historical interest, only one or two can be here indicated. Originally, actions for a battery or for an asportation of chattels were determined by wager of law in the popular courts of the hundred and county. With the growth of the feudal state these actions, except in case of a trivial battery, became convertible, by the addition of the words *feloniter, vi et armis*, and *contra pacem regis* (or *ducis*), into appeals of felony, determinable by wager of battle in the royal courts. Later, by the omission of *feloniter*, the appeal became the familar action of trespass, with trial by jury. The book before us shows that trespass *quare clausum fregit* had a different course of development. From case No. 35 it appears that there was no appeal of felony for a simple entry upon land unaccompanied by a battery of the occupant, or an asportation of his chattels. Such an entry, like a trivial battery, was, doubtless, regarded as too slight an offence to be visited with the penalties of felony. On the other hand, after trespass became concurrent with the appeal of felony for a battery or asportation, it was but natural to admit trespass *quare clausum fregit* in the *curia regis*, in competition with the similar action in the popular courts.

Cases Nos. 88, 105, and 126 (see also 3 Bracton's Note Book, case No. 1664) make it plain that the much-quoted rule, "A bailee may sue a wrongdoer because he is liable over to his bailor," was an established doctrine at the beginning of the thirteenth century. It seems, also, that in England, as upon the Continent, the bailor could not, in early times, sue the wrongdoer. The bailee had the chattels, the bailor had but a right to have them. In other words, the bailee could, and the bailor could not, prove that the chattels, when taken, were '*sua*.' By regarding the possession of the bailee at will as the possession of the bailor, the courts, in the time of Edward III., gave the bailor also a right of action against the wrongdoer.

J. B. A.